

Amy Davies

From: mail@town-planning.co.uk
Sent: 13 January 2023 17:35
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Chapel Farm, Epperstone - Draft Conditions

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Amy

Thank you for inviting comments on the draft conditions which accords with the principles of best practice advice set out in Planning Practice Guidance and is much appreciated.

A minor point would be that in our view, given the state of the existing building and the reports already produced, including the NSDC commissioned structural report, we think that a Level 2 Historic Building Record would suffice as a descriptive record rather than a more analytical record required by Level 3.

On a more substantive point my primary comment is relating to the draft conditions is condition 8 relating to the withdrawal of permitted development rights. The proposed removal of 15 classes of permitted development rights is excessive and has no relationship to past decisions on this site under 17/01330/FUL and 20/00536/FUL. It has also come as a surprise because the Planning Committee report in no way refers to removing such an extensive list of permitted development rights.

As you are aware Parliament has seen fit to give permitted development rights to dwellings located within Conservation Areas. These rights are already more restricted in Conservation Areas and as such a blanket removal of permitted development rights is neither proportionate nor necessary. Where the LPA seeks to control matters within Conservation Areas then the correct method of doing this is through the use of Article 4 Directions.

Having read the Planning Committee report there is no discussion to demonstrate what exceptional circumstances are present to justify the withdrawal of permitted development rights. There is reference to Part 1 Class C and Class D, I'm not persuaded that the reasoning in the report justifies exceptional circumstances but we would not argue against these two classes being withdrawn. This is a replacement dwelling for a dwelling that benefits from all permitted development rights; the existing fall-back position relating to the existing dwelling and previous consents is material.

Having regard to the Planning Committee report, as presently suggested condition 8 as is proposed in the draft conditions list is unreasonable and unnecessary. The reasoning that the site lies within the Conservation Area as the LPA suggest is not a reason in itself to remove permitted development rights. Parliament has seen fit to allow for new dwellings to have permitted development rights even when constructed in Conservation Areas and within Green Belts. In fact, Parliament has not seen fit to consider that permitted development rights should be limited in any way in Green Belts or in the setting of Listed Buildings. As indicated if the LPA considers that the area requires further protection, then the correct route to follow is through an Article 4 Direction. Withdrawing permitted development rights imposes a considerable financial burden on homeowners in having to pay application fees for matters that would not normally require a planning application; there is also a financial burden associated with planning applications having to be prepared including preparation of plans.

As you will be aware Planning Practice Guidance Reference ID: 21a-017-20140306 is explicit that *"Conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances."* Reading the Planning Committee report I cannot see what exceptional circumstances have been demonstrated in this case as

required by Planning Practice Guidance. Paragraph 54 of the NPPF states: *"Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so."*

You are suggesting removing permitted development rights in 15 different classes. This includes in Part 2 in relation to matters such as the provision of electrical vehicle charging, this conflicts with the provisions of the building regulations as the new dwelling will be required to have an electrical vehicle charging point. You also suggest removing the various rights under Part 14 for renewable and low carbon energy provision; this flies in the face of the climate emergency that was declared by the Council on 16 July 2019. Legislation is going to require all properties to move to low carbon energy sources by 2035, therefore in the future this property alongside all others will need to move to new low carbon and renewable energy provision. It is unreasonable to prevent this property for moving towards low carbon and renewable energy in due course, particularly given that the suggested permitted development rights to be withdrawn already have safeguards within them making them more restrictive already because of the Conservation Area status. As you will be aware in many cases permitted development rights in Conservation Areas are more restrictive towards matters on the front elevation or forward of a dwelling. Accordingly in this case those safeguards would already impose the safeguards that Parliament has seen necessary, appropriate and proportionate.

Appeal Ref: APP/B3030/W/17/3168578 at Brownlows Hill, Coddington was an appeal where the Council asked for a planning condition withdrawing permitted development rights on the reason that the site was in the Conservation Area. In that appeal the Inspector was explicit in her conclusion stating in paragraph 27 of her decision: *"In line with the Planning Practice Guidance I have not imposed a condition removing specific permitted development rights associated with the dwelling. This is because this would not meet the tests of reasonableness and necessity. Moreover, the Council has the powers under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order to enable them to withdraw permitted development rights across a defined area."*

On the basis of published Planning Committee report we would accept condition 8 removing permitted development rights under Part 1 Class C (Other Roof Alterations) and Class D (Porches) but would not accept that any justification has been demonstrated for any of the other classes suggested.

Should you wish to pursue condition 8 as you suggest then I would ask that the above comments are reported to Members in the late representations in the interest of balance.

[REDACTED]

Kind regards
Anthony

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